

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON (SEATTLE)**

RIANNA RICHARDS AND JANE
WANGARI, individuals,

Plaintiffs,

v.

SCHOEN TRUST COMPANY, as
Successor Administrator of THE
ESTATE OF EUGENE E. HENSELER,
and as Trustee of the HENSELER
LIVING TRUST,

Defendant.

NO. 2:22-cv-00878-TL

STIPULATED PROTECTIVE
ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the

STIPULATED PROTECTIVE ORDER

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1 limited information or items that are entitled to confidential treatment under the
2 applicable legal principles, and it does not presumptively entitle parties to file
3 confidential information under seal.

4 2. "CONFIDENTIAL" MATERIAL

5 "Confidential" material shall include the following documents and tangible things
6 produced or otherwise exchanged: Defendant Henseler Living Trust's and Gene
7 Henseler's bank and financial records, produced by Defendant Schoen Trust Company
8 in its capacity as Trustee of the Henseler Living Trust and Successor Administrator of
9 the Estate of Gene Henseler. This description may be supplemented as discovery and
10 investigation continues.

11 3. SCOPE

12 The protections conferred by this agreement cover not only confidential material
13 (as defined above), but also (1) any information copied or extracted from confidential
14 material; (2) all copies, excerpts, summaries, or compilations of confidential material;
15 and (3) any testimony, conversations, or presentations by parties or their counsel that
16 might reveal confidential material.

17 However, the protections conferred by this agreement do not cover information
18 that is in the public domain or becomes part of the public domain through trial or
19 otherwise.

20 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

21 4.1 Basic Principles. A receiving party may use confidential material that is
22 disclosed or produced by another party or by a non-party in connection with this case
23 only for prosecuting, defending, or attempting to settle this litigation. Confidential
24 material may be disclosed only to the categories of persons and under the conditions
25 described in this agreement. Confidential material must be stored and maintained by
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1 a receiving party at a location and in a secure manner that ensures that access is
2 limited to the persons authorized under this agreement.

3 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
4 ordered by the court or permitted in writing by the designating party, a receiving party
5 may disclose any confidential material only to:

6 (a) the receiving party's counsel of record in this action, as well as
7 employees of counsel to whom it is reasonably necessary to disclose the information
8 for this litigation;

9 (b) the officers, directors, and employees (including in house counsel)
10 of the receiving party to whom disclosure is reasonably necessary for this litigation,
11 unless the parties agree that a particular document or material produced is for
12 Attorney's Eyes Only and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably
14 necessary for this litigation and who have signed the "Acknowledgment and Agreement
15 to Be Bound" (Exhibit A);

16 (d) the court, court personnel, and court reporters and their staff;

17 (e) copy or imaging services retained by counsel to assist in the
18 duplication of confidential material, provided that counsel for the party retaining the
19 copy or imaging service instructs the service not to disclose any confidential material
20 to third parties and to immediately return all originals and copies of any confidential
21 material;

22 (f) during their depositions, witnesses in the action to whom disclosure
23 is reasonably necessary and who have signed the "Acknowledgment and Agreement
24 to Be Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered
25 by the court. Pages of transcribed deposition testimony or exhibits to depositions that
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1 reveal confidential material must be separately bound by the court reporter and may
2 not be disclosed to anyone except as permitted under this agreement;

3 (g) the author or recipient of a document containing the information or
4 a custodian or other person who otherwise possessed or knew the information.

5 4.3 Filing Confidential Material. Before filing confidential material or discussing
6 or referencing such material in court filings, the filing party shall confer with the
7 designating party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether
8 the designating party will remove the confidential designation, whether the document
9 can be redacted, or whether a motion to seal or stipulation and proposed order is
10 warranted. During the meet and confer process, the designating party must identify the
11 basis for sealing the specific confidential information at issue, and the filing party shall
12 include this basis in its motion to seal, along with any objection to sealing the
13 information at issue. Local Civil Rule 5(g) sets forth the procedures that must be
14 followed and the standards that will be applied when a party seeks permission from
15 the court to file material under seal. A party who seeks to maintain the confidentiality
16 of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it
17 is not the party filing the motion to seal. Failure to satisfy this requirement will result in
18 the motion to seal being denied, in accordance with the strong presumption of public
19 access to the Court's files.

20 5. DESIGNATING PROTECTED MATERIAL

21 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
22 party or non-party that designates information or items for protection under this
23 agreement must take care to limit any such designation to specific material that
24 qualifies under the appropriate standards. The designating party must designate for
25 protection only those parts of material, documents, items, or oral or written
26 communications that qualify, so that other portions of the material, documents, items,

1 or communications for which protection is not warranted are not swept unjustifiably
2 within the ambit of this agreement.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations that
4 are shown to be clearly unjustified or that have been made for an improper purpose
5 (e.g., to unnecessarily encumber or delay the case development process or to impose
6 unnecessary expenses and burdens on other parties) expose the designating party to
7 sanctions.

8 If it comes to a designating party's attention that information or items that it
9 designated for protection do not qualify for protection, the designating party must
10 promptly notify all other parties that it is withdrawing the mistaken designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this
12 agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise
13 stipulated or ordered, disclosure or discovery material that qualifies for protection
14 under this agreement must be clearly so designated before or when the material is
15 disclosed or produced.

16 (a) Information in documentary form: (e.g., paper or electronic
17 documents and deposition exhibits, but excluding transcripts of depositions or other
18 pretrial or trial proceedings), the designating party must affix the word
19 "CONFIDENTIAL" to each page that contains confidential material. If only a portion or
20 portions of the material on a page qualifies for protection, the producing party also must
21 clearly identify the protected portion(s) (e.g., by making appropriate markings in the
22 margins).

23 (b) Testimony given in deposition or in other pretrial proceedings: the
24 parties and any participating non-parties must identify on the record, during the
25 deposition or other pretrial proceeding, all protected testimony, without prejudice to
26 their right to so designate other testimony after reviewing the transcript. Any party or

1 non-party may, within fifteen days after receiving the transcript of the deposition or
2 other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as
3 confidential. If a party or non-party desires to protect confidential information at trial,
4 the issue should be addressed during the pre-trial conference.

5 (c) Other tangible items: the producing party must affix in a prominent
6 place on the exterior of the container or containers in which the information or item is
7 stored the word "CONFIDENTIAL." If only a portion or portions of the information or
8 item warrant protection, the producing party, to the extent practicable, shall identify the
9 protected portion(s).

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
11 to designate qualified information or items does not, standing alone, waive the
12 designating party's right to secure protection under this agreement for such material.
13 Upon timely correction of a designation, the receiving party must make reasonable
14 efforts to ensure that the material is treated in accordance with the provisions of this
15 agreement.

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any party or non-party may challenge a designation
18 of confidentiality at any time. Unless a prompt challenge to a designating party's
19 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
20 unnecessary economic burdens, or a significant disruption or delay of the litigation, a
21 party does not waive its right to challenge a confidentiality designation by electing not
22 to mount a challenge promptly after the original designation is disclosed.

23 6.2 Meet and Confer. The parties must make every attempt to resolve any
24 dispute regarding confidential designations without court involvement. Any motion
25 regarding confidential designations or for a protective order must include a certification,
26 in the motion or in a declaration or affidavit, that the movant has engaged in a good

1 faith meet and confer conference with other affected parties in an effort to resolve the
 2 dispute without court action. The certification must list the date, manner, and
 3 participants to the conference. A good faith effort to confer requires a face-to-face
 4 meeting or a telephone conference.

5 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
 6 intervention, the designating party may file and serve a motion to retain confidentiality
 7 under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable).
 8 The burden of persuasion in any such motion shall be on the designating party.
 9 Frivolous challenges, and those made for an improper purpose (e.g., to harass or
 10 impose unnecessary expenses and burdens on other parties) may expose the
 11 challenging party to sanctions. All parties shall continue to maintain the material in
 12 question as confidential until the court rules on the challenge.

13 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN 14 OTHER LITIGATION

15 If a party is served with a subpoena or a court order issued in other litigation that
 16 compels disclosure of any information or items designated in this action as
 17 "CONFIDENTIAL," that party must:

18 (a) promptly notify the designating party in writing and include a copy
 19 of the subpoena or court order;

20 (b) promptly notify in writing the party who caused the subpoena or
 21 order to issue in the other litigation that some or all of the material covered by the
 22 subpoena or order is subject to this agreement. Such notification shall include a copy
 23 of this agreement; and

24 (c) cooperate with respect to all reasonable procedures sought to be
 25 pursued by the designating party whose confidential material may be affected.
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1 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

2 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
3 confidential material to any person or in any circumstance not authorized under this
4 agreement, the receiving party must immediately (a) notify in writing the designating
5 party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized
6 copies of the protected material, (c) inform the person or persons to whom
7 unauthorized disclosures were made of all the terms of this agreement, and (d) request
8 that such person or persons execute the "Acknowledgment and Agreement to Be
9 Bound" that is attached hereto as Exhibit A.

10 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
11 PROTECTED MATERIAL

12 When a producing party gives notice to receiving parties that certain inadvertently
13 produced material is subject to a claim of privilege or other protection, the obligations
14 of the receiving parties are those set forth in Federal Rule of Civil Procedure
15 26(b)(5)(B). This provision is not intended to modify whatever procedure may be
16 established in an e-discovery order or agreement that provides for production without
17 prior privilege review. The parties agree to the entry of a non-waiver order under Fed.
18 R. Evid. 502(d) as set forth herein.

19 10. NON TERMINATION AND RETURN OF DOCUMENTS

20 Within 60 days after the termination of this action, including all appeals, each
21 receiving party must return all confidential material to the producing party, including all
22 copies, extracts and summaries thereof. Alternatively, the parties may agree upon
23 appropriate methods of destruction.

24 Notwithstanding this provision, counsel are entitled to retain one archival copy of
25 all documents filed with the court, trial, deposition, and hearing transcripts,
26 correspondence, deposition and trial exhibits, expert reports, attorney work product,

1 and consultant and expert work product, even if such materials contain confidential
2 material.

3 The confidentiality obligations imposed by this agreement shall remain in effect
4 until a designating party agrees otherwise in writing or a court orders otherwise.

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6 DATED this 27th day of July, 2022.

7 MONTGOMERY PURDUE PLLC

8
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17 DATED this 27th day of July, 2022.

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the
3 production of any documents in this proceeding shall not, for the purposes of this
4 proceeding or any other federal or state proceeding, constitute a waiver by the
5 producing party of any privilege applicable to those documents, including the attorney-
6 client privilege, attorney work-product protection, or any other privilege or protection
7 recognized by law.

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9 DATED this 22nd day of August 2022.

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12 Tana Lin
13 United States District Judge
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under
 penalty of perjury that I have read in its entirety and understand the Stipulated
 Protective Order that was issued by the United States District Court for the Western
 District of Washington on _____, 2022, in the case of *Richards, et al. v.*
Schoen Trust Company, et al., No. 2:22-cv-00878-TL. I agree to comply with and to be
 bound by all the terms of this Stipulated Protective Order and I understand and
 acknowledge that failure to so comply could expose me to sanctions and punishment
 in the nature of contempt. I solemnly promise that I will not disclose in any manner
 any information or item that is subject to this Stipulated Protective Order to any person
 or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
 the Western District of Washington for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____